HEALTH AND SAFETY CODE

DIVISION 2. LICENSING PROVISIONS
CHAPTER 3.2. RESIDENTIAL CARE FACILITIES FOR THE ELDERLY

1569.725. (a) A residential care facility for the elderly may permit incidental medical services to be provided through a home health agency, licensed pursuant to Chapter 8 (commencing with Section 1725), when all of the following conditions are met:

(1) The facility, in the judgment of the department, has the ability to provide the supporting care and supervision appropriate to meet the needs of the resident receiving care from a home health agency.

(2) The home health agency has been advised of the regulations pertaining to residential care facilities for the elderly and the requirements related to incidental medical services being provided in the facility.

(3) There is evidence of an agreed-upon protocol between the home health agency and the residential care facility for the elderly. The protocol shall address areas of responsibility of the home health agency and the facility and the need for communication and the sharing of resident information related to the home health care plan. Resident information may be shared between the home health agency and the residential care facility for the elderly relative to the resident's medical condition and the care and treatment provided to the resident by the home health agency including, but not limited to, medical information, as defined by the Confidentiality of Medical Information Act, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(4) There is ongoing communication between the home health agency and the residential care facility for the elderly about the services provided to the resident by the home health agency and the frequency and duration of care to be provided.

(b) Nothing in this section is intended to expand the scope of care and supervision for a residential care facility for the elderly, as prescribed by this chapter.

(c) Nothing in this section shall require any care or supervision to be provided by the residential care facility for the elderly beyond that which is permitted in this chapter.

(d) The department shall not be responsible for the evaluation of medical services provided to the resident of the residential care facility for the elderly by the home health agency.

(e) Any regulations, policies, or procedures related to sharing resident information and development of protocols, established by the department pursuant to this section, shall be developed in consultation with the State Department of Health Services and persons representing home health agencies and residential care facilities for the elderly.

DIVISION 102. VITAL RECORDS AND HEALTH STATISTICS
PART 2. POPULATION AND PUBLIC HEALTH SURVEILLANCE
CHAPTER 1. BIRTH DEFECTS MONITORING PROGRAM

103825. The Legislature hereby finds and declares that birth defects, stillbirths, and miscarriages represent problems of public health importance about which too little is known; that these conditions lead to severe mental anguish on the part of parents and relatives and frequently to high medical care costs; and that a system to obtain more information about these conditions could result in development of preventive measures to decrease their incidence in the future. Therefore, it is the intent of the Legislature in enacting this section to accomplish all of the following:

(a) To maintain an ongoing program of birth defects monitoring statewide. "Birth defect" as used in this chapter means any medical problem of organ structure, function, or chemistry of possible genetic or prenatal origin.

(b) To provide information on the incidence, prevalence, and trends of birth defects, stillbirths, and miscarriages.

(c) To provide information to determine whether environmental hazards are associated with birth defects, stillbirths, and miscarriages.

(d) To provide information as to other possible causes of birth defects, stillbirths, and miscarriages.

(e) To develop prevention strategies for reducing the incidence of birth defects, stillbirths, and miscarriages.

(f) To conduct interview studies about the causes of birth defects.

(g) To affirm the authority of the state department to contract with a qualified entity to operate the birth defects monitoring program statewide.

103830. The director shall maintain a system for the collection of information, necessary to accomplish the purposes of this chapter. The director shall require health facilities, with 15 days' notice, to make available to authorized program staff the medical records of children suspected or diagnosed as having birth defects, including the medical records of their mothers. In addition, health facilities shall make available the medical records of mothers suspected or diagnosed with stillbirths or miscarriages and other records of persons who may serve as controls for interview studies about the causes of birth defects. If it is necessary to photocopy records made available under this section, copying expenses shall be paid by the state department.

"Health facilities" as used in this section means general acute care hospitals, and physician-owned or operated clinics, as defined in Section 1200, that regularly provide services for the diagnosis or treatment of birth defects, genetic counseling, or prenatal diagnostic services.

103835. The birth defects monitoring program shall operate statewide. It is the intent of the Legislature that the adequacy of program resources shall be assessed annually, and that the annual assessment shall include a consideration of at least all the following factors:

(a) The numbers of births in the state.
(b) The scope of program activities.
(c) Any urgent situation requiring extraordinary commitment of present or planned program staff or resources.

103840. The director shall use the information collected pursuant to Section 103830 and information available from other reporting systems and health providers to conduct studies to investigate the causes of birth defects, stillbirths, and miscarriages and to determine and evaluate measures designed to prevent their occurrence. The department's investigation of poor reproductive outcomes shall not be limited to geographic, temporal, or occupational associations, but may include investigation of past exposures.

103845. The director shall appoint an advisory committee to advise on the implementation of this chapter. Each of the disciplines of epidemiology, hospital administration, biostatistics, maternal and child health and public health shall be represented on the committee. At least one of the members shall be a representative of the manufacturing industry.

103850. (a) All information collected pursuant to this chapter shall be confidential and shall be used solely for the purposes provided in this chapter. For purposes of this chapter, this information shall be referred to as "confidential information." Access to confidential information shall be limited to authorized program staff, and persons with a valid scientific interest, who meet qualifications as determined by the director, who are engaged in demographic, epidemiological or other similar studies related to health, and who agree, in writing, to maintain confidentiality.
(b) The department shall maintain an accurate record of all persons who are given access to confidential information. The record shall include: the name of the person authorizing access; name, title, address, and organizational affiliation of persons given access; dates of access; and the specific purpose for which information is to be used. The record of access shall be open to public inspection during normal operating hours of the state department.
(c) All research proposed to be conducted by persons other than program staff, using confidential information in the system, shall first be reviewed and approved by the director and the State Committee for the Protection of Human Subjects. Satisfaction of the terms of the director's rules for data access shall be deemed to establish a valid scientific interest for purposes of subdivision (a), entitling the researcher to review records collected pursuant to Section 103830 and to contact case subjects and controls. Before confidential information is disclosed pursuant to this section to any other person, agency, or organization, the requesting entity shall demonstrate to the department that the entity has established the procedures and ability to maintain the confidentiality of the information.
(d) Notwithstanding any other provision of law, any disclosure authorized by this section shall include only the information necessary for the stated purpose of

the requested disclosure, and shall be made only upon written agreement that the information will be kept confidential, used for the approved purpose, and not be further disclosed.

(e) The furnishing of confidential information to the department or its authorized representative in accordance with this section shall not expose any person, agency, or entity furnishing the information to liability, and shall not be considered a waiver of any privilege or a violation of a confidential relationship.

(f) Whenever program staff, pursuing program objectives, deems it necessary to contact case subjects and controls, program staff shall submit a protocol describing the research to the director and to the State Committee for the Protection of Human Subjects. Once a protocol is approved by that committee, program staff shall be deemed to have established a bona fide research purpose, and shall be entitled to complete the approved project and contact case subjects and controls without securing any additional approvals or waivers from any entity.

(g) Notwithstanding any other provision of law, no part of the confidential information shall be available for subpoena, nor shall it be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall this information be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason. Nothing in this section shall prohibit the publishing by the department of reports and statistical compilations relating to birth defects, stillbirth, or miscarriage that do not in any way identify individual cases or individual sources of information.

(h) Any person who, in violation of a written agreement to maintain confidentiality, discloses any information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section may be denied further access to any confidential information maintained by the department. That person shall also be subject to a civil penalty of five hundred dollars ($500). The penalty provided in this section shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the department or any person.

(i) Notwithstanding the restrictions in this section, an individual to whom the information pertains shall have access to his or her own information in accordance with Chapter 1 (commencing with Section 1798) of Title 1.8 of the Civil Code.

103855. The department may enter into a contract for the establishment and implementation of the birth defects monitoring program. The contract shall include provisions requiring full compliance with all the requirements of this chapter. The term of the contract may be in excess of one year, but no longer than three years. Funds shall be allocated in accordance with the state Budget Act. Funds withheld from the contractor at the conclusion of a fiscal year until specified tasks are completed shall be released promptly on proof of substantial completion, and shall not be offset against any funding for the subsequent fiscal year.

DIVISION 10.5. STATE DEPARTMENT OF

ALCOHOL AND DRUG PROGRAMS

PART 3. STATE GOVERNMENT'S ROLE TO ALLEVIATE PROBLEMS RELATED TO THE USE AND ABUSE OF DRUGS

CHAPTER 3. REGISTRATION OF NARCOTICS AND DRUG ABUSE PROGRAMS

11977. (a) The identity and records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse treatment or prevention effort or function conducted, regulated, or directly or indirectly assisted by the department shall, except as provided in subdivision (c), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subdivision (b).

(b) The content of any records referred to in subdivision (a) may be disclosed in accordance with the prior written consent of the client with respect to whom the record is maintained, but only to the extent, and under the circumstances, and for the purposes as clearly stated in the release of information signed by the client.

(c) Whether or not the client, with respect to whom any given record referred to in subdivision (a) is maintained gives his or her written consent, the content of the record may be disclosed as follows:

(1) In communications between qualified professional persons employed by the treatment or prevention program in the provision of service.

(2) To qualified medical persons not employed by the treatment program to the extent necessary to meet a bona fide medical emergency.

(3) To qualified personnel for the purpose of conducting scientific research, management audits, financial and compliance audits, or program evaluation, but the personnel may not identify, directly or indirectly, any individual client in any report of the research, audit, or evaluation, or otherwise disclose patient identities in any manner. For purposes of this paragraph, the term "qualified personnel" means persons whose training and experience are appropriate to the nature and level of work in which they are engaged, and who, when working as part of an organization, are performing that work with adequate administrative safeguards against unauthorized disclosures.

(4) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom his or her identity in records or information may be disclosed, except that nothing in this section shall be construed to compel a physician and surgeon, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of the client's family.

(5) If authorized by a court of competent jurisdiction granted after application showing probable cause therefor, as provided in subdivision (c) of Section 1524 of the Penal Code.

(d) Except as authorized by a court order granted under paragraph (5) of subdivision (c), no record referred to in subdivision (a) may be used to initiate or substantiate any criminal charges against a client or to conduct any investigation of a client.

(e) The prohibitions of this section shall continue to apply to records concerning any individual who has been a client, irrespective of whether he or she ceases to be a client.

DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT)

PART 1. GENERAL ADMINISTRATION

CHAPTER 1. PATIENT ACCESS TO HEALTH RECORDS

123100. The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patient's condition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

123105. As used in this chapter:

(a) "Health care provider" means any of the following:

(1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.

(5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.

(6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.

(9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.

(10) A marriage, family, and child counselor licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.

(c) "Patient" means a patient or former patient of a health care provider.

(d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.

(e) "Patient's representative" or "representative" means a parent or the guardian of a minor who is a patient, or the guardian or conservator of the person of an adult patient, or the beneficiary or personal representative of a deceased patient.

(f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

123110. (a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents ($0.25) per page or fifty cents ($0.50) per page for records that are copied from microfilm and any additional reasonable clerical

costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights that a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(e) This chapter shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(f) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a

violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(g) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (f).

123111. (a) Any adult patient who inspects his or her patient records pursuant to Section 123110 shall have the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patient's record and shall clearly indicate in writing that the patient wishes the addendum to be made a part of his or her record.

(b) The health care provider shall attach the addendum to the patient's records and shall include that addendum whenever the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of patient's records to any third party.

(c) The receipt of information in a patient's addendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patient's records, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d) Subdivision (f) of Section 123110 and Section 123120 shall be applicable with respect to any violation of this section by a health care provider.

123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

123120. Any patient or representative aggrieved by a violation of Section 123110 may, in addition to any other remedy provided by law, bring an action against the health care provider to enforce the obligations prescribed by Section 123110. Any judgment rendered in the action may, in the discretion of the court, include an award of costs and reasonable attorney fees to the prevailing party.

123125. (a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

123130. (a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patient's request. However, if more time is needed because the record is of extraordinary length or because the patient was discharged from a licensed health facility within the last 10 days, the health care provider shall notify the patient of this fact and the date that the summary will be completed, but in no case shall more than 30 days elapse between the request by the patient and the delivery of the summary. In preparing the summary of the record the health care provider shall not be obligated to include information that is not contained in the original record.

(b) A health care provider may confer with the patient in an attempt to clarify the patient's purpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following:

(1) Chief complaint or complaints including pertinent history.

(2) Findings from consultations and referrals to other health care providers.

(3) Diagnosis, where determined.

(4) Treatment plan and regimen including medications prescribed.

(5) Progress of the treatment.

(6) Prognosis including significant continuing problems or conditions.

(7) Pertinent reports of diagnostic procedures and tests and all discharge summaries.

(8) Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

(c) This section shall not be construed to require any medical records to be written or maintained in any manner not otherwise required by law.

(d) The summary shall contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the provider.

(e) Subdivision (c) of Section 123110 shall be applicable whether or not the health care provider elects to prepare a summary of the record.

(f) The health care provider may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary. The cost shall be based on a computation of the actual time spent preparing the summary for availability to the patient or the patient' s representative. It is the intent of the

Legislature that summaries of the records be made available at the lowest possible cost to the patient.

123135. Except as otherwise provided by law, nothing in this chapter shall be construed to grant greater access to individual patient records by any person, firm, association, organization, partnership, business trust, company, corporation, or municipal or other public corporation, or government officer or agency. Therefore, this chapter does not do any of the following:

(a) Relieve employers of the requirements of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(b) Relieve any person subject to the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code) from the requirements of that act.

(c) Relieve government agencies of the requirements of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

123140. The Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) shall prevail over this chapter with respect to records maintained by a state agency.

123145. (a) Providers of health services that are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years.

(b) The department or any person injured as a result of the licensee's abandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof. In the event that the licensee is a corporation or partnership that is dissolved, the person injured may take action against that corporation's or partnership's principle officers of record at the time of dissolution.

(c) Abandoned means violating subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 123110.

123148. Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall, upon a written or oral request of a patient who is the subject of a clinical laboratory test, provide the patient with the results of the test in plain language conveyed in the manner deemed most appropriate by the health care professional who requested the test. The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record and shall be reported to the patient within a

reasonable time period after the test results are received at the offices of the health care professional who requested the test.

123149. (a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.

(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.

(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.

(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.

(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.

(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be electronically stored.

(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.

(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.

(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.

123149.5. (a) It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patient's medical record maintained by the licensed health care provider.

(b) This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

DIVISION 110. THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY IMPLEMENTATION ACT OF 2001

130300. This division shall be known and may be cited as the Health Insurance Portability and Accountability Implementation Act of 2001.

130301. The Legislature finds and declares the following:

(a) The federal Health Insurance Portability and Accountability Act (42 U.S.C. Sec. 300gg), known as HIPAA, was enacted on August 21, 1996.

(b) HIPAA extends health coverage benefits to workers after they terminate or change employment by allowing the worker to participate in existing group coverage plans, thereby avoiding the additional expense associated with obtaining individual coverage as well as the potential loss of coverage because of a preexisting health condition.

(c) Administrative simplification is a key feature of HIPAA, requiring standard national identifiers for providers, employers, and health plans and the development of uniform standards for the coding and transmission of claims and health care information. Administration simplification is intended to promote the use of information technology, thereby reducing costs and increasing efficiency in the health care industry.

(d) HIPAA also contains new standards for safeguarding the privacy and security of health information. Therefore, the development of policies for safeguarding the privacy and security of health records is a fundamental and indispensable part of HIPAA implementation that must accompany or precede the expansion or standardization of technology for recording or transmitting health information.

(e) The federal Health and Human Services Agency has published, and continues to publish, rules pertaining to the implementation of HIPAA. Following a 60-day congressional concurrence period, health providers and insurers have 24 months in which to implement these rules.

(f) These federal rules directly apply to state and county departments that provide health coverage, health care, mental health services, and alcohol and drug treatment programs. Other state and county departments are subject to these rules to the extent they use or exchange information with the departments to which the federal rules directly apply.

(g) In view of the substantial changes that HIPAA will require in the practices of both private and public health entities and their business associates, the ability of California government to continue the delivery of vital health services will depend upon the implementation of HIPAA in a manner that is coordinated among state departments as well as our partners in county government and the private health sector.

(h) The implementation of HIPAA shall be accomplished as required by federal law and regulations and shall be a priority for state departments.

130302. For the purposes of this division, the following definitions apply:
(a) "Director" means the Director of the Office of HIPAA Implementation.
(b) "HIPAA" means the federal Health Insurance Portability and Accountability Act.
(c) "Office" means the Office of HIPAA Implementation established by the office of the Governor in the Health and Human Services Agency.
(d) "State entities" means all state departments, boards, commissions, programs, and other organizational units of the executive branch of state government.

130303. The office shall assume statewide leadership, coordination, policy formulation, direction, and oversight responsibilities for HIPAA implementation. The office shall exercise full authority relative to state entities to establish policy, provide direction to state entities, monitor progress, and report on implementation efforts.

130304. The office shall be under the supervision and control of a director, known as the Director of the Office of HIPAA Implementation, who shall be appointed by, and serve at the pleasure of, the Secretary of the Health and Human Services Agency.

130305. The office shall be staffed, at a minimum, with the following personnel:
(a) Legal counsel to perform activities that may include, but are not limited to, determining the application of federal law pertaining to HIPAA.
(b) Staff with expertise in the rules promulgated by HIPAA.
(c) Staff to oversee the development of training curricula and tools and to modify the curricula and tools as required by the state' s ongoing HIPAA compliance effort.
(d) Information technology staff.
(e) Staff, as necessary, to coordinate and monitor the progress made by all state entities in HIPAA implementation.
(f) Administrative staff, as necessary.

130306. (a) The office shall perform the following functions:
(1) Standardizing the HIPAA implementation process used in all state entities, which includes the following:
(A) Developing a master plan and overall state strategy for HIPAA implementation that includes timeframes within which specified activities will be completed.
(B) Specifying tools, such as protocols for assessment and reporting, and any other tools as determined by the director for HIPAA implementation.
(C) Developing uniform policies on privacy, security, and other matters related to HIPAA that shall be adopted and implemented by all state entities. In

developing these policies, the office shall consult with representatives from the private sector, state government, and other public entities affected by HIPAA.

(D) Providing an ongoing evaluation of HIPAA implementation in California and refining the plans, tools, and policies as required to effect implementation.

(E) Developing standards for the office to use in determining the extent of HIPAA compliance.

(2) Representing the State of California in HIPAA discussions with the federal Department of Health and Human Services and at the Workgroup for Electronic Data Interchange and other national and regional groups developing standards for HIPAA implementation, including those authorized by the federal Department of Health and Human Services to receive comments related to HIPAA. In preparing comments for submission to these entities, the office shall work in coordination with private and public entities to which the comments relate. The office may review and approve all comments related to HIPAA that state entities or representatives from the University of California, to the extent authorized by its Regents, propose for submission to the federal Department of Health and Human Services or any other body or organization.

(3) Monitoring the HIPAA implementation activities of state entities and requiring these entities to report on their implementation activities at times specified by the director using a format prescribed by the director. The office shall seek the cooperation of counties in monitoring HIPAA implementation in programs that are administered by county government.

(4) Providing state entities with technical assistance as the director deems necessary and appropriate to advance the state's implementation of HIPAA as required by the schedule adopted by the federal Department of Health and Human Services. This assistance shall also include sharing information obtained by the office relating to HIPAA.

(5) Providing the Department of Finance with recommendations on HIPAA implementation expenditures, including proposals submitted by state entities and a recommendation on the amount to be appropriated for allocation by the Department of Finance to entities implementing HIPAA.

(6) Conducting a periodic assessment at least once every three years to determine whether staff positions established in the office and in other state entities to perform HIPAA compliance activities continue to be necessary or whether additional staff positions are required to complete these activities.

(7) Reviewing and approving contracts relating to HIPAA to which a state entity is a party prior to the contract's effective date.

(8) Reviewing and approving all HIPAA legislation proposed by state entities, other than state control agencies, prior to the proposal's review by any other entity and reviewing all analyses and positions, other than those prepared by state control agencies, on HIPAA related legislation being considered by either Congress or the Legislature.

(9) Ensuring state departments claim federal funding for those activities that qualify under federal funding criteria.

(10) Establishing a Web site that is accessible to the public to provide information in a consistent and accessible format concerning state HIPAA

implementation activities, timeframes for completing those activities, HIPAA implementation requirements that have been met, and the promulgation of federal regulations pertaining to HIPAA implementation. The office shall update this Web site quarterly.

(b) In performing these functions, the office shall coordinate its activities with the State Office of Privacy Protection.

130307. The director shall establish an advisory committee to obtain information on statewide HIPAA implementation activities, which shall meet at a minimum of two times per year. It is the intent of the Legislature that the committee's membership include representatives from county government, from consumers, and from a broad range of provider groups, such as physicians and surgeons, clinics, hospitals, pharmaceutical companies, health care service plans, disability insurers, long-term care facilities, facilities for the developmentally disabled, and mental health providers. The director shall invite key stakeholders from the federal government, the Judicial Council, health care advocates, nonprofit health care organizations, public health systems, and the private sector to provide information to the committee.

130308. The office may contract for the provision of services required to implement this division. The Legislature finds that these contracts are for a new state function and authorizes the performance of this work by independent contractors, pursuant to paragraph (2) of subdivision (b) of Section 19130 of the Government Code.

130309. (a) All state entities subject to HIPAA shall complete an assessment, in a form specified by the office, prior to January 1, 2002, to determine the impact of HIPAA on their operations. The office shall report the statewide results of the assessment to the appropriate policy and fiscal committees of the Legislature on or before May 15, 2002.

(b) Other state entities shall cooperate with the office to determine whether they are subject to HIPAA, including, but not limited to, providing a completed assessment as prescribed by the office.

130310. All state entities shall cooperate with the efforts of the office to monitor HIPAA implementation activities and to obtain information on those activities.

130311. All state entities affected by HIPAA shall comply with the decisions of the director in achieving compliance with HIPAA.

130312. (a) The Department of Finance shall provide a complete accounting of HIPAA expenditures made by all state entities.

(b) The Department of Finance, in consultation with the office, shall develop and annually publish prior to August 1, guidelines for state entities to obtain additional HIPAA funding. All funding requests from state entities for HIPAA implementation, including, but not limited to, requests for appropriations through

the Budget Act or other legislation and requests for allocation of lump-sum funds from the Department of Finance, shall be reviewed and approved by the office prior to being submitted to the Department of Finance. Funding requests pertaining to information technology activities shall also be reviewed and approved by the Department of Information Technology.

(c) The Department of Finance shall notify the office and the Chairperson of the Senate Committee on Budget and Fiscal Review and the Chairperson of the Assembly Budget Committee of each allocation it approves within 10 working days of the approval. The Department of Finance shall also report to the Legislature quarterly on HIPAA allocations, redirections, and expenditures, categorized by state entity and by project.

130313. To the extent that funds are appropriated in the annual Budget Act, the office shall perform the following functions in order to comply with HIPAA requirements:

(a) The establishment and ongoing support of departmental HIPAA project management offices.

(b) The development, revision, and issuance of HIPAA compliance policies.

(c) Modifications of programs in accordance with any revised policies.

(d) Staff training on HIPAA compliance policies and programs.

(e) Coordination and communication with other affected entities.

(f) Modifications to, or replacement of, information technology systems.

(g) Consultation with appropriate stakeholders.

130314. The office shall report to the Legislature, upon its request, any services or programs that were temporarily reduced or suspended due to the redirection of funds for HIPAA compliance activities.

130315. State entities may adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement HIPAA requirements set forth in final federal regulations. This authority shall terminate one year after the last final rule for HIPAA is issued by the federal government. The adoption of emergency regulations described in this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. An emergency regulation adopted under this section shall remain in effect for not more than two years.

130316. Any funds appropriated for the purpose of this division that remain unexpended or unencumbered on January 1, 2008, shall revert to the General Fund on that date unless a statute that is enacted before January 1, 2008, extends the provisions of this division.

130317. This division shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.